

REMARKS

Claim Status

Claims 1-5, 7, 9-12, 16, 19, 21, 23-26, and 28-37 are pending and stand rejected.

Claim Amendments

Unless otherwise stated, amendments to the claims are made to correct typographical errors or improve clarity. Amendments are supported for example at least by originally filed FIG. 2 and accompanying text. No new matter is added.

Claim Rejections under 35 USC §103(a)

The Examiner rejected Claims 1-5, 7, 9-12, 16, 19, 21, 23-26, 28, 29, and 33-37 under 35 USC §103(a) as being obvious in view of Timm et al. (U. S. Patent No. 6,055,268) ("Timm") and Nakashima et al. (U.S. Patent No. 6,636,531) ("Nakashima"). Dependent Claims 30-32 stand rejected under 35 USC §103(a) as being obvious in view of Timm, Nakashima, and Chang et al. (U.S. Patent No. 6,697,368) ("Chang").

As is well understood, a prima facie obviousness rejection requires:

three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*,

947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2142.

Amended Claim 23 recites in pertinent part:

plurality of MACs ... wherein **at least two of the MACs** are capable of transmission to the remote network device at **different maximum rates**. (Emphasis added).

With regard to amended Claim 23, at pages 9 to 10 of the Office Action, the Examiner states that Timm teaches:

and a plurality of MACs (Central Office modems of Fig. 2a, each with MDSL driver of a MAC sublayer ref. by col. 38 lines 39-47), wherein the plurality of MACs includes the MAC and a second MAC (Central Office modems of Fig. 2a), wherein the MAC and the second MAC are capable of transmission to the remote network device at different rates (each modem separately determine and identify its line code rate capability/preference ref. by col. 18 lines 40-67), wherein the control logic is to: select a MAC for use in a communication channel with the remote network device base in part on the processing capability of the remote network device being approximately equal to the transmission rate of the selected MAC (determine and identify remote modem line code rate capability/preference in order to transmit at equal rates ref. by col. 18 lines 40-67, col. 20 lines 1-15).

Applicants respectfully submit at least that Timm does not teach "at least two of the MACs are capable of transmission to the remote network device at different maximum rates" of Claim 23, as amended. FIG. 1e of Timm depicts multiple DSL modems in box 100 within central office 220. Timm recites "rate negotiation process can be implemented at the beginning of each communication session through the exchange of tones between modems at both ends" (col. 5, line 66

to col. 6, line 2). However, Timm does not state that there is any difference of maximum transmission rates among the DSL modems or their associated media access controller within central office 220. Nakashima does not cure the deficiency of the teachings of Timm with regard to amended Claim 23. Accordingly, amended Claim 23 is allowable over the teachings of Timm and Nakashima and applicants respectfully request that the Examiner withdraw the rejection of Claim 23.

Independent Claims 1, 10, 16, 24, and 29 are amended to recite language similar to that recited in amended Claim 23 and thus are allowable over the teachings of Timm and Nakashima for at least similar reasons as pertain to amended Claim 23. Claims 2-5, 7, 9, 11, 12, 19, 21, 25, 26, 28, and 33-37 depend from any of base Claim 1, 10, 16, 24, or 29 and thus are allowable over the teachings of Timm and Nakashima for at least the same reasons as pertain to any of base Claims 1, 10, 16, 24, or 29.

Chang does not cure the deficiency of the teachings of Timm and Nakashima with regard to amended Claim 29. Claims 30-32 depend from Claim 29 and thus are allowable over the teachings of Timm, Nakashima, and Chang for at least the same reasons as pertain to base Claim 29.

Final Remarks

The enclosed remarks are not intended to be an exhaustive enumeration of all distinctions between any cited references and the claims. The distinctions identified and discussed are to illustrate at least one difference between the claims and the cited reference.

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Accordingly, because all pending claims are allowable (namely, Claims 1-5, 7, 9-12, 16, 19, 21, 23-26, and 28-37), applicant respectfully requests that all pending claims be allowed.

If the Examiner has any questions concerning this application, please call the applicants' attorney, Glen Choi, at (703) 633-0926.

If there are any charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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